

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant(s): Engelhardt et al.

Serial No.: 10/717,140

Group Art Unit: 1634

Filed: November 18, 2003

Examiner: Lu, F.

For: **PROCESS FOR SELECTIVE EXPRESSION OF NUCLEIC ACID  
PRODUCTS**

Confirmation No.: 7276

**INFORMATION DISCLOSURE STATEMENT TRANSMITTAL LETTER**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In accordance with 37 C.F.R. 1.56, 1.97 and 1.98, Applicants submit herewith references which they believe may be material to the patentability of this application and with respect to which there may be a duty to disclose in accordance with 37 C.F.R. 1.56.

While the references may be "material" under 37 C.F.R. 1.56, it is not intended to constitute an admission that the references are "prior art" unless specifically designated as such.

The filing of this Information Disclosure Statement shall not be construed as a representation that no other material references than those listed exist or that a search has been conducted.

The references are listed in Form PTO SB08a (in accordance with the requirements of MPEP 609) and below. Office Actions issued in related cases and additional non-patent literature references are submitted herewith.

### **US Patents**

4851331	1989-07-25	Vary
5162209	1992-11-10	Scheele
5169766	1992-12-08	Schuster
5374553	1994-12-20	Gelfand
5474916	1995-12-12	Reischl
5550035	1996-08-27	Moss
5994056	1999-11-30	Higuchi

### **Non-Patent Literature**

Non-final Rejection July 24, 2008 of Patent App. No. 10713183 (Attny. Dkt. No. Enz-52(D2)(C)(D1))

Final Rejection August 21, 2008 of Patent App. No. 10717140 (Attny. Dkt. No. Enz-52(C2))

Non-final Rejection April 1, 2009 of Patent App. No. 10713183 (Attny. Dkt. No. Enz-52(D2)(C)(D1))

Non-final Rejection April 15, 2009 of Patent App. no. 10718391 (Attny. Dkt. No. Enz-52(C2))

Non-final Rejection September 2, 2009 of Patent App. No. 11809443 (Attny. Dkt. No. Enz-52(C3))

Non-final Rejection September 2, 2009 of Patent App. No. 11809452 (Attny. Dkt. No. Enz-52(C4))

Final Rejection December 24, 2009 of Patent App. No. 10713183 (Attny. Dkt. No. Enz-52(D2)(C)(D1))

Final Rejection February 2, 2010 of Patent App. No. 10718391 (Attny. Dkt. No. Enz-52(C2))

COCHRAN et al. "Eukaryotic transient expression system dependent on transcription factors and regulatory DNA sequences of vaccinia virus" Proc. Natl. Acad. Sci. USA 82: 19-23. 1985

Enz-52(C)(D3)

DAUBE et al. "Functional transcription elongation complexes from synthetic RNA-DNA bubble duplexes" Science 258: 1320. 1992

JORGENSEN et al. "Specific contacts between the bacteriophage T3, T7, and SP6 RNA polymerases and their promoters." J. Biol. Chem 266: 645-651. 1991

LOPATA et al. "RNA polymerase specificity of mRNA production and enhancer action" Proc. Natl. Acad. Sci. USA 83: 6677-6681. 1986.

KWOH et al. "Transcription-based amplification system and detection of amplified human immunodeficiency virus type 1 with a bead-based sandwich hybridization format" Proc. Natl. Acad. Sci. USA 86: 1173. 1989

NEW ENGLAND BIOLABS "Recleavable Blunt Ends"

PINE "Constitutive expression of an ISGF2/IRF1 transgene leads to interferon-independent activation of interferon-inducible genes and resistance to virus infection" J. Virol. 66: 4470-4478. 1992

WU et al. "Receptor-mediated Gene Delivery" J. Biol. Chem. 263: 14621-14624. 1988

For Examiner's reference, this application is a continuation of application serial no. 10/260,031, filed June 6, 2003; which is a continuation of application serial no. 09/302,817, (abandoned) filed February 3, 1998; which is a division of application serial no. 08/182,621 (abandoned) filed January 13, 1994. Additional related applications include application serial no. 10.260,031 (pending) filed June 6, 2003; application serial no. 10/713,183 (pending), filed November 14 2003; application serial no. 10/718,391 (pending) filed November 19, 2003; application serial no. 11/809, 443 (pending) filed June 1, 2007, and application serial no. 11/809,452 (pending) filed June 1, 2007.

It is respectfully requested that these references be considered by the Patent and Trademark Office in its examination of the above-identified application and be made of record therein. The Examiner is also invited to contact the Undersigned if there are any questions concerning this paper or the attached references.

The Information Disclosure Statement submitted herewith is being filed  
[ ] after submitting the RCE but before any subsequent Office Action  
[ ] before the mailing date of a first Office Action on the merits  
[x] after the mailing date of a first Office Action on the merits.

Respectfully submitted,

Date: February 16, 2010

/Cheryl H Agris/  
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